

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

KENOL LUXAMA, #1248751

v.

NATHANIEL QUARTERMAN
DIRECTOR, TDCJ-CID

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CIVIL ACTION NO. G-07-160

ORDER

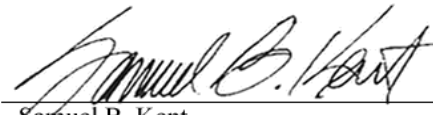
Before the Court is the Report and Recommendation of the United States Magistrate Judge that was entered on April 3, 2007, recommending that Petitioner's federal habeas corpus writ be dismissed without prejudice because he had not yet exhausted his state court remedies. Petitioner filed Objections to the Report and Recommendation in a timely manner.

In his Objections, Petitioner does not dispute that he had not exhausted his state court remedies when he filed his federal habeas corpus application, nor does he allege that the Texas Court of Criminal Appeals has since ruled on the state writ of habeas corpus he filed pursuant to Article 11.07 of the Texas Code of Criminal Procedure. Instead, Petitioner contends that he is entitled to have his case considered for federal review now because the state court is not "acting in good faith" in affording him a speedy resolution of his state habeas corpus writ, the state procedures are not adequate or effective, and that he should not have to continue to attempt to pursue state remedies because this would be futile. In his Objections, Petitioner also requests the Court appoint him counsel and conduct a hearing before issuing its ruling, however, these requests are **DENIED**.

Having given this matter *de novo* review under 28 U.S.C. § 636(b)(1)(C), this Court finds Petitioner's objections are without merit and that the Report and Recommendation is correct and it is, therefore, **ACCEPTED** by this Court in its entirety and incorporated by reference herein.

Accordingly, since he has not yet exhausted his state remedies, it is **ORDERED** that Petition for a Writ of Habeas Corpus of Kenol Luxama (Instrument No. 1) is **DISMISSED WITHOUT PREJUDICE**.

DONE at Galveston, Texas this 25th day of April, 2007.



Samuel B. Kent
United States District Judge